

Office of the Secretary of State  
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Charleston, WV 25305

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WESTFIELD INSURANCE COMPANY  
John Batchelder  
One Park Circle  
Westfield Center, OH 44251



**Mac Warner**  
Secretary of State  
State of West Virginia  
**Phone:** 304-558-6000  
886-767-8683  
**Visit us online:**  
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**Control Number:** 252043

**Defendant:** WESTFIELD INSURANCE COMPANY  
One Park Circle  
Westfield Center, OH 44251 US

**Agent:** John Batchelder

**County:** Monongalia

**Civil Action:** 20-C-12

**Certified Number:** 92148901125134100002651609

**Service Date:** 1/21/2020

I am enclosing:

**1 summons and complaint**

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your authorized insurance company.

*Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your authorized insurance company as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.*

Sincerely,

*Mac Warner*

Mac Warner  
Secretary of State

**RECEIVED**

**JAN 27 2020**

Legal / Compliance Dept



**SUMMONS**

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

**ROBERT CAMPIONE**

**PLAINTIFF(S),**

**VS.**

**CIVIL ACTION NO. 20-C-12**

**WESTFIELD INSURANCE COMPANY,**  
c/o John Batchelder  
One Park Circle  
Westfield Center OH 44251

**DEFENDANT(S).**

To the above-name Defendants:

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve **DINO S. COLOMBO AND JON R. GODWIN**, whose address is **341 Chaplin Road, 2<sup>nd</sup> Floor, Morgantown WV 26501** an answer including any related counterclaim you may have to the complaint filed against you in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within **30** days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled action.

**DATED: JANUARY 16, 2020**

*Jean Friend*  
JEAN FRIEND, CLERK  
MONONGALIA CO. CIRCUIT COURT  
BY *Susan Howbridge*  
DEPUTY CLERK

**IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA**

**ROBERT CAMPIONE,**

**Plaintiff,**

**v.**

**Civil Action No.: 20-C-12**

**WESTFIELD INSURANCE COMPANY,**

**Defendant.**

**COMPLAINT**

**NOW COMES** the plaintiff, Robert Campione, by counsel, Dino S. Colombo and Jon R. Godwin, who for his Complaint against the Defendant, Westfield Insurance Company, states and avers as follows:

**Jurisdiction and Venue**

1. Upon information and belief, Defendant Westfield Insurance Company ("Westfield") is an insurance company incorporated in the State of Ohio, with its principal place of business in the State of Ohio.
2. Defendant Westfield regularly writes insurance policies in the State of West Virginia, and specifically in Monongalia County, West Virginia, and conducts business within Monongalia County, West Virginia.
3. The Plaintiff, Robert Campione, maintains his principal residence in Morgantown, Monongalia County, West Virginia.
4. The automobile crash which gives rise to this Complaint occurred on January 22, 2018, at the intersection of Point Marion Road and Stewartstown Road in Morgantown, Monongalia County, West Virginia.

5. Defendant Westfield contracted with Plaintiff to provide automobile liability insurance, including underinsurance proceeds, pursuant to policy number WNP0444299, which policy was in effect on January 22, 2018, and provided underinsurance limits of \$250,000 per person, \$500,000 per accident.
6. On January 22, 2018, Joy Mills negligently operated her vehicle on Point Marion Road, in Morgantown, Monongalia County, West Virginia, when she failed to properly yield to oncoming traffic, striking Plaintiff Robert Campione's vehicle. As a result of Joy Mills' negligence, Plaintiff Robert Campione sustained serious personal injuries.
7. Thereafter, Joy Mills' insurance company, Progressive Insurance, offered to settle Plaintiff's claims against Joy Mills for its policy limits.
8. Pursuant to W. Va. Code § 33-6-31e, Defendant Westfield, as the underinsurance carrier for Plaintiff Robert Campione, consented to the settlement, and waived subrogation against Joy Mills.
9. Pursuant to *Postlethwait v. Boston Old Colony Ins. Co.*, 432 S.E.2d 802 (W. Va. 1993), Plaintiff now brings claims against his own insurer, Defendant Westfield, seeking underinsurance benefits for which he paid Defendant Westfield a premium.
10. Based on the foregoing, the Circuit Court of Monongalia County, West Virginia has personal and subject matter jurisdiction of the civil action initiated by this Complaint.

#### **COUNT I**

11. The Plaintiff hereby restates the allegations contained in Paragraphs 1-10 above as if re-alleged herein verbatim.

12. On January 22, 2018, Joy Mills was the driver of a 2011 Jeep Wrangler, which was owned by her father, John Mills, and was attempting to turn from Point Marion Road on to Stewartstown Road in Morgantown, Monongalia County, West Virginia.
13. On this same date and time, Plaintiff Robert Campione was lawfully operating his 2001 Land Rover Discovery SUV, south on Point Marion Road.
14. Joy Mills attempted to turn on to Stewartstown Road, and slammed her vehicle into Plaintiff Robert Campione's vehicle.
15. At all times relevant herein, Joy Mills owed a duty to all individuals on the roadway to maintain control of her vehicle; to not operate her vehicle in a negligent manner; and, to abide by all local, state, and federal traffic laws.
16. Joy Mills, by failing to maintain control of her vehicle and causing a crash, breached her duty owed to the Plaintiff Robert Campione.
17. As a direct and proximate result of Joy Mills' negligent and reckless behavior, the Plaintiff Robert Campione, suffered physical, emotional, and other damages, which damages exceeded the liability insurance limits available under Joy Mills' insurance policy.
18. Joy Mills' insurance company, Progressive Insurance, offered to settle Plaintiff's claims against Joy Mills for policy limits.
19. Defendant Westfield, as the insurer for Plaintiff Robert Campione, has consented to this settlement and waived its subrogation rights against Joy Mills, pursuant to W. Va. Code 33-6-31e.
20. Nevertheless, Defendant Westfield has failed to make a reasonable offer to the Plaintiff for the settlement of his underinsurance claims in this matter.

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## COUNT II

21. The Plaintiff hereby restates the allegations contained in Paragraphs 1-20 as if re-alleged herein verbatim.
22. The Plaintiff Robert Campione, suffered physical, emotional, and other damages, of which the value exceeded the liability insurance limits available under Joy Mills' insurance policy. Therefore, Plaintiff Robert Campione has made a claim with his own insurance company, Defendant Westfield, for the underinsured motorist coverage for which he has paid a premium.
23. Plaintiff Robert Campione and his wife dutifully and loyally paid premiums and purchased underinsured motorist coverage for this collision from Defendant Westfield.
24. The Plaintiff alleges that Defendant Westfield has violated the West Virginia Unfair Trade Practice Act and has committed first party bad faith against its insured, Plaintiff Robert Campione, by violating West Virginia Code § 33-11-4 (9), and the West Virginia Code of State Rules § 114-14-6 (and its various subparts) in one or more of the following respects:
  - a. By failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of Plaintiff Robert Campione's claim, in which liability against the tortfeasor is clear;
  - b. By compelling Plaintiff Robert Campione, to institute litigation to recover amounts due to him under his underinsured motorist policy;
  - c. By attempting to settle Plaintiff Robert Campione's claim for less than the amount which a reasonable person would have believed he was entitled to;

d. By attempting to settle Plaintiff Robert Campione's claim for a sum that is unreasonably low given the facts and circumstances of the case.

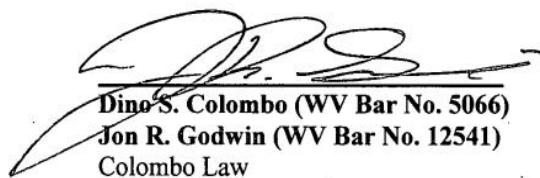
25. Defendant Westfield is believed to have a pattern and practice of offering unreasonably low settlement offers to its insureds, and/or offering unreasonably low settlements even when liability and damages are reasonably clear.

**WHEREFORE**, Plaintiff requests relief from Defendant Westfield as follows:

- a. All compensatory damages recoverable under West Virginia law, including damages for the annoyance, aggravation and expense of prosecuting this litigation;
- b. Payment of attorney's fees and litigation expenses associated with the prosecution of this civil action;
- c. If applicable, payment of any excess verdict obtained as a result of the trial of this civil action;
- d. All damages recoverable under the case of *Hayseeds, Inc. v State Farm*, 177 W.Va. 323, 352 S.E.2d 73 (1986);
- e. Plaintiff also seeks an award of punitive damages against Defendant Westfield to punish it for its willful and reckless conduct and to deter it and other similarly situated insurance companies from conducting itself in such a manner.

**A TRIAL BY JURY IS DEMANDED ON ALL ISSUES.**

**ROBERT CAMPIONE, Plaintiff,  
By Counsel,**



**Dino S. Colombo (WV Bar No. 5066)  
Jon R. Godwin (WV Bar No. 12541)  
Colombo Law  
341 Chaplin Road, 2<sup>nd</sup> Floor  
Morgantown, WV 26501  
(304) 599-4229**